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Chapter No. 435
19/SS26/R881SG
LR 17B/LR

SENATE BILL NO. 2901

Originated in Senate

L. Welch

Secretary

SENATE BILL NO. 2901

AN ACT TO CREATE THE LANDOWNERS PROTECTION ACT; TO REGULATE LIABILITY OF LANDOWNERS WHEN AN INVITEE IS INJURED ON THE LANDOWNER'S PROPERTY; TO AMEND SECTION 85-5-7, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF "FAULT" REGARDING JOINT AND SEVERAL LIABILITY; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) This section shall be known and may be cited as the "Landowners Protection Act."

(2) For any premises-liability actions brought under the laws of the State of Mississippi, no person who owns, leases, operates, maintains, or manages commercial or other real property in the State of Mississippi and no director, officer, employee, agent or independent contractor acting on behalf of any such person shall be civilly liable to any invitee who is injured on said property as the result of the willful, wanton or intentional tortious conduct of any third party who is not a director, officer, employee or agent of the person who owns, leases, operates, maintains or manages such commercial or other real

property unless the injured party can prove by a preponderance of the evidence that:

(a) The conduct of said third party occurred on the property;

(b) The conduct of the person who owns, leases, operates, maintains or manages the property actively and affirmatively, with a degree of conscious decision-making, impelled the conduct of said third party; and

(c) The third party's conduct proximately caused the economic and noneconomic damages suffered by the injured party.

(3) For any civil actions brought under the laws of the State of Mississippi for the purpose of alleging liability for the injury of an invitee as described in subsection (2) of this section, an atmosphere of violence shall only be established by similar violent conduct:

(a) Which occurred three (3) or more times within three (3) years before the third party act at issue;

(b) Which took place only on the commercial or other real property where the acts of the third party occurred; and

(c) Which are based upon three (3) or more separate events or incidents that resulted in three (3) or more arraignments of an individual for a felony involving an act of violence.

(4) For any civil actions brought under the laws of the State of Mississippi for the purpose of alleging liability for the

injury of an invitee as described in subsection (2) of this section, civil liability may not be based on the prior violent nature of the third party whose acts or omissions proximately caused the claimed injury or damage unless the person who owns, leases, operates, maintains or manages the property has actual, not constructive, knowledge of the prior violent nature of said third party.

(5) If any provision of this section or its application to any person or circumstance is held unconstitutional or otherwise invalid, the remainder of this section or the application of the provision to other persons or circumstances is not affected.

(6) Nothing in this section shall be construed to alter the provisions of Section 97-3-15.

(7) For purposes of this section, "premises-liability action" means a civil action based upon the duty owed to someone injured on a landowner's premises as a result of conditions or activities on the land.

SECTION 2. Section 85-5-7, Mississippi Code of 1972, is amended as follows:

85-5-7. (1) As used in this section, "fault" means an act or omission of a person which is a proximate cause of injury or death to another person or persons, damages to property, tangible or intangible, or economic injury, including, but not limited to, negligence, malpractice, strict liability, absolute liability or failure to warn. Except as otherwise provided in this subsection

(1), "fault" shall not include any tort which results from an act or omission committed with a specific wrongful intent. For any premises-liability action, as defined under Section 1(7) of this act, alleging injury as a result of the willful, wanton or intentional tortious conduct of a third party on commercial or other real property in the State of Mississippi, "fault" shall include any tort which results from an act or omission committed with a specific wrongful intent.

(2) Except as otherwise provided in subsection (4) of this section, in any civil action based on fault, the liability for damages caused by two (2) or more persons shall be several only, and not joint and several and a joint tortfeasor shall be liable only for the amount of damages allocated to him in direct proportion to his percentage of fault. In assessing percentages of fault an employer and the employer's employee or a principal and the principal's agent shall be considered as one (1) defendant when the liability of such employer or principal has been caused by the wrongful or negligent act or omission of the employee or agent.

(3) Nothing in this section shall eliminate or diminish any defenses or immunities which currently exist, except as expressly noted herein.

(4) Joint and several liability shall be imposed on all who consciously and deliberately pursue a common plan or design to commit a tortious act, or actively take part in it. Any person

held jointly and severally liable under this section shall have a right of contribution from his fellow defendants acting in concert.

(5) In actions involving joint tortfeasors, the trier of fact shall determine the percentage of fault for each party alleged to be at fault without regard to whether the joint tortfeasor is immune from damages. Fault allocated under this subsection to an immune tortfeasor or a tortfeasor whose liability is limited by law shall not be reallocated to any other tortfeasor.

(6) Nothing in this section shall be construed to create a cause of action. Nothing in this section shall be construed, in any way, to alter the immunity of any person.


SECTION 3. This act shall take effect and be in force from and after July 1, 2019.

PASSED BY THE SENATE
March 13, 2019



PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
February 28, 2019



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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